



EX PARTE OR LATE FILED

GVNW

FCC MAIL ROOM
December 17, 1998

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

RE: Ex Parte Notice, CC Docket No. 98-146

Dear Ms. Salas:

On November 4, 1998, Jack Pendleton and I visited with individuals from the Office of Plans and Policy (OPP) and Common Carrier Bureau (CCB). We discussed issues related to rural ILECs providing advanced telecommunications services. At that time, additional information was requested. We are providing that data under this cover.

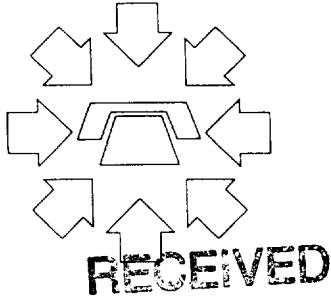
An original and one copy of this ex parte notice is being filed. Please include a copy of this notice in the public record of these proceedings. I have also enclosed one copy to be stamped and returned in the enclosed self-addressed stamped envelope.

Respectfully submitted,

Jeffry H. Smith
Attachments - letter plus 5

cc: Mr. Bob Pepper
Mr. Johnson Garrett
Ms. Jennifer Fabian

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December 17, 1998

Mr. Robert M. Pepper
Chief, Office of Plans and Policy
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

RE: CC Docket No. 98-146 EXPARTE - GVNW COMMENTS

At our November 4 ex parte meeting, your staff requested additional information on the business case data we presented as well as any proposed rules that would facilitate the deployment of advanced services in rural America.

Additional Business Case Data

Enclosed are three additional business case packets:

- **ADDITIONAL INFORMATION FOR BUSINESS CASE PROVIDED IN INITIAL TESTIMONY.** We have now included capital requirement and subscriber evaluation information.
- **HIGH SPEED DATA ONLY – NO VIDEO SERVICES.** We have now included capital requirement and subscriber evaluation information.
- **CURRENT EQUIPMENT PRICES AT 12/1/98.** Please note that this does not include any costs to build cable plant to accommodate DSL technology.

Recommended Proposed ATS Rules

A number of parties are offering the Commission recommendations with respect to how rules for the provision of ATS should be crafted. As we discussed last month, for urban areas and large business customers where competitive alternatives exist, the current FCC proposals may be adequate. However, in other areas (suburban outside business corridors, rural) and other customer classes (small business) that do not enjoy a proven competitive choice, a different approach is recommended.

The timing of how soon competition will arise is problematic. In the residential customer base, considering the recent meltdown of @Home CATV based service, deployment of competitive technology to dial up data access via cable modem may be delayed significantly. In the @Home case, CATV providers have been forced to admit that a shared bus configuration for true high speed data delivery that can accommodate data at video rates (3-6 Mb/sec) is not viable using the current CATV plant architecture. The upgrade of CATV networks to true two-way high speed functionality with small nodes and the ability to accommodate streaming video on a shared bus of limited capacity will require significant expenditures above the current projected costs to deploy cable modem technology. This results in delaying the deployment and/or constraining the deployment to areas that can provide significant revenues. These primary target areas would possess high customer geographic density and high projected market penetration. One such example would be wealthy, technologically advanced areas such as Redmond, Washington (often referred to as "suburban Microsoft"). The majority of rural service areas (e.g., those areas with lower customer densities and lower income levels) will probably be excluded for a much longer timeframe.

Since CATV has not traditionally served business customers, these customers will not have access to CATV as a competitive alternative to the ILEC. As an example, when GVNW built a new office in a suburb (Tualatin) of Portland, Oregon in 1997, the local CATV provider was asked to provide an entrance cable during the construction phase so we would have access to cable modem service. The CATV provider declined to do so. This is but one example of why the small business customer will probably not see competitive alternatives for a long time.

In addition, as shown in our business case evaluations, the deployment of ATS using DSL technology is delayed by high entry costs.

Given the absence of competition as a driver in the rural and small business segments, and the current high cost of providing ATS service, we recommend that the FCC should permit certain incumbent rural LECs to provide ATS under a different set of rules to their rural customers. The concepts we utilized in drafting the attached proposed additions to Part 64 of the Commission's rules include:

- 1.) The separate subsidiary requirements should be considered only for large ILECs. The recent proposal made by the consortium of large ILECs and PC industry firms shows the difference in circumstances between urban and rural service territories. Their proposal offers, inter alia, relief from pricing restrictions after a) offering DSL services from central offices serving at least 50% of residential access lines; and b) the Commission finds 'no persuasive evidence of the ILECs material noncompliance' with collocation and loop unbundling requirements. These conditions are not germane in rural applications.

- 2.) The Commission should provide a blanket exemption, under section 251(f)(2), to any ILEC that meets certain service quality conditions, from the subsidiary and unbundling requirements proposed for the provision of ATS. Congress has expressed its concern to the FCC that Section 251 (f) "was intended to ensure that rural telephone companies are provided with a gradual transition into a competitive environment and obligations incurred only after a bona fide request. We urge you to consider the special circumstances of rural telephone companies while implementing the Act."¹ Judging from recent Hill press releases, Congress is even more concerned about the state of TA 96 implementation now, almost thirty months later.
- 3.) The Part 64 Rules for regulated/non-regulated activity will provide ample protection. The ILEC should be required to have its Part 64 Manual available for third party review.
- 4.) There should be strict must-serve requirements on any ATS provider that require service to the entire geographic area, and all customers requesting the service, in return for securing the local loop at reduced cost. Must-serve requirements should include: Geographic coverage; Minimum bandwidth requirements; Services offered requirements; Reliability requirements; and Customer service office requirements. There should be significant financial penalties for failure to meet the must-serve requirements.

If you have any questions, please call Jack Pendleton or me. Best wishes to you and your staff for the holiday season.

Sincerely,



Jeffry H. Smith

Copy to Johnson Garrett, OPP
Jennifer Fabian, OPP

¹ July 31, 1996 letter to Reed Hundt, FCC, from Senators Dorgan, Pressler, Exon and Kerrey.

Enclosures – 5

Business Case Material:

Additional Information for Business Case Provided In Initial Testimony – 8 pages

High Speed Data Only – No Video Services – 8 pages

Current Equipment Prices At 12/1/98 – 8 pages

Part V - Proposed Part 64 Rule Amendments sections 64.2100 – 64.2103 (please note we assumed an Order date of March 31, 1999, that may not be the actual date an order will be released) – 3 pages

Letter to Reed Hundt from Four US Senators dated 7/31/96 – 2 pages

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**Business Case Evaluation
For Provision of
Advanced Telecommunications Services
Over Twisted pair Copper and xDSL Technology**

**ADDITIONAL INFORMATION FOR BUSINESS CASE PROVIDED IN INITIAL
TESTIMONY**

The business case presented here was prepared by GVNW for a rural Incumbent LEC client that is considering offering services that fit the description of Advanced Telecommunications Services (ATS) in CC Docket 96-146. This is provided as part of the ExParte contact to show what we believe to be the actual economics of deployment of ATS in small-scale sites that will be typical of deployments in rural areas. In this case, the population of the service area is approximately 12,000 with about 5,800 households. All potential customers can be reached using xDSL technology.

The business plans presented here are for a non-regulated affiliate offering the ATS service over loops leased from the ILEC. All program content is provided from local equipment.

The evaluation was conducted over a projected five-year period. The Income Statements were provided as part of GVNW's testimony in CC Docket No. 98-146. The Capital Requirement and Subscriber Evaluation are provided here per the FCC's request at the ExParte meeting of November 4, 1998.

Advanced Services Provided:

All services considered in this evaluation can be provided from equipment that is currently available or in beta test. GVNW has extensive experience in field trial of equipment and services with our clients in this area.

Services Offered:

- Broadcast Channels (CATV like service)
- Video on Demand
- High Speed Internet/Data Network Access
- Two Bandwidths – 256 Kilobit and 1.544 Megabit

Inputs:

Values for the inputs were based on real world numbers wherever possible. In many cases, quotations were obtained from providers of equipment or services required to offer ATS. Revenues were based on actual prices and market penetration experienced by various existing providers of like services. Many GVNW clients are small telephone companies that also offer CATV service or Internet service, or both. Their experience in prices paid for is included. The above input assumptions thus reflect real world conditions as much as these currently exist. Some items, such as the price for high-speed

internet/data access had to be assumed, since there is not a significant number of these services deployed to have a large database of price and market penetration. In all cases, inputs were assumed on a conservative basis, so as not to overstate the business case for providing services where there is limited or no current experience.

INPUT ASSUMPTIONS

Revenue:

Service	Amount	Basis for Amount
Broadcast Video – (CATV like) – Basic Service	\$26.99 /customer/month Market penetration 22% of homes passed in year 1 growing to 70% in year 5	Current prices and penetration of CATV provider in nearby urban area
Broadcast Video – (CATV like) – Premium Service	\$8.99 /premium service/month Market penetration 50% premium of basic in year 1 changing to 48% in year 5	Current prices and penetration of CATV provider in nearby urban area
Broadcast Video – (CATV like) – Set Top Box Lease	\$3.95 /customer/month Market penetration 22% of homes passed in year 1 growing to 70% in year 5	Current prices and penetration of CATV provider in nearby urban area
Internet Basic – 256 Kb	\$37.99 /customer/month Market penetration 5% percent of total households in year 1 changing to 19% in year 5	Estimate based on experience of GVNW dial up Internet Service Providers
Internet Premium – 1.5 Mb	\$49.99 /customer/month Market penetration 1% percent of total households in year 1 changing to 5% in year 5	Estimate based on experience of GVNW dial up Internet Service Providers
Video On Demand	\$3.50 per event ordered in Yr. 1 to \$3.00 in Yr. 5 1.5 events leased per basic broadcast customer per month in Yr. 1 to 2.2 events in Yr. 5.	Lease rates between current Video Rental stores and current CATV Pay-Per-View subscription rates - per VOD content provider.
Advertising – Local Market	\$1.00 per basic broadcast customer per month in Yr. 1, growing to \$3.00 in Yr. 5	Local advertising revenue of GVNW client CATV providers
Install Fees	\$149.99 per install	Recover cost of wiring house with Category 5 data wire required for ATS

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Capital Investment

Investment	Amount	Basis for Amount
Video on Demand Server, Digital Video Encoders, Digital Switching/Routing Infrastructure, ADSL Modems	\$2,528.00 per customer in Yr. 1, changing to \$2,513.00 in Yr. 5.	Manufacturer's price quotes
Digital Set Top Box	\$682.00 per unit in Yr. 1, changing to \$279.00 in Yr. 5	Manufacturer's price quotes

Expenses:

Expense	Amount	Basis for Amount
People Expenses (Sales, marketing, customer service, engineering, accounting, management,, legal, consulting, insurance)	\$11.55 per customer per month in Yr. 1 changing to \$8.48 in Yr. 5	Current GVNW Client people expenses reduced to reflect increased efficiency and lower ongoing costs after start up.
Internet Addresses and Server Capacity	\$3.00 per Customer per month – all years	GVNW clients that are Internet Service Providers
Lease of Local Loop from Incumbent LEC	\$25.00 per cable pair per month	Various ILEC tariffs for ISDN/DSL conditioned loops.
Software Right to Use/Network Management/System Integration	\$.50 per customer per month – all years	Provider's price quotes
Video Programming	Basic - \$6.00 per basic broadcast customer per month Premium - \$5.00 per premium customer per channel per month Video on Demand - \$2.00 per event shown	Published prices for channels, and experience of GVNW clients that are CATV providers
Facilities Lease to Remote Server	\$0.00	N/A – Local Equipment Only
Install labor	\$140.00 per install	GVNW client experience

Financial Parameters

Item	Amount	Basis for Amount
Interest Rate	7.00%	Prevailing borrowing rates for small companies
Term of Loan – Initial Construction	20 Years	
Depreciation Service Life	6 Years	

Observations:

The business case is not viable under current conditions. There are several reasons for this.

- 1.) Current pricing of equipment is greater than can be justified in deployments of small scale that will be required in rural areas. In all cases pricing provided by the vendors shows a significant decrease over the five-year period.
- 2.) The price of leased transport is such that it is not economical to deploy a central head end for multiple service locations to realize economies of scale. Transport of video requires large bandwidth, which is uneconomical at current transport rates on the small scale necessary for rural applications.
- 3.) One would expect to see the business case improve from year to year as more subscribers are added, price of equipment decreases, and efficiencies are realized in operating (people) expenses. Based on current pricing at the scale considered in the evaluation, this does not happen on a significant scale, indicating that there may not be a viable case for these services at the scale deployed in rural areas.

Conclusions:

- 1.) Advanced Telecommunications Services is not a viable business case on a stand-alone basis at the small scales that would be deployed in rural areas.
- 2.) The high cost of leased broadband transport makes it uneconomical to realize economies of scale in equipment deployment by centralizing equipment.
- 3.) GVNW recommended to the client that, given the current business case, Advanced Telecommunications Service not be deployed at this time.

No Video Service - Internet Only
FULL HEAD END AT COMPANY

SAMPLE TELEPHONE COMPANY
BUSINESS PLAN - ADVANCED TELECOMMUNICATIONS SERVICES
INCOME STATEMENT

Calendar Year Estimate	1 Forecast 1998	2 Forecast 1999	3 Forecast 2000	4 Forecast 2001	5 Forecast 2002	Cumulative 5 Yr.
Income Statement and Cash Flow - Pro Forma						
Operating Revenues						
Operating Transfers In	\$0	\$0	\$0	\$0	\$0	\$0
Subscription Fees - CATV Basic	\$291,492	\$582,984	\$1,004,028	\$1,198,356	\$1,327,908	\$4,404,768
Subscription Fees - CATV Premium	\$48,546	\$97,092	\$161,820	\$188,790	\$215,760	\$712,008
Subscription Fees - VOD	\$0	\$0	\$0	\$0	\$0	\$0
Subscription Fees - Local Telephone Service	\$0	\$0	\$0	\$0	\$0	\$0
Subscription Fees - Internet Basic	\$91,176	\$136,764	\$227,940	\$364,704	\$501,468	\$1,322,052
Subscription Fees - Internet Premium	\$29,994	\$59,988	\$89,982	\$134,973	\$179,964	\$494,901
Subscription Fees - Lease STB	\$42,660	\$85,320	\$130,200	\$155,400	\$172,200	\$585,780
Transaction Fees - Internet Services	\$0	\$0	\$0	\$0	\$0	\$0
Transaction Fees - VOD	\$170,100	\$347,760	\$568,230	\$639,360	\$723,240	\$2,448,690
Long Distance Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Advertising Revenue Local Market	\$10,800	\$32,400	\$74,400	\$111,000	\$147,600	\$376,200
Advertising Revenue Inet Links/Comsn	\$0	\$0	\$0	\$0	\$0	\$0
Advertising Revenue- Other	\$0	\$0	\$0	\$0	\$0	\$0
Install Fees	\$149,990	\$127,492	\$191,237	\$116,242	\$89,994	\$674,955
Increased Cost Recovery - Additional Sub Ckt Eqpt						
Interstate	\$0	\$0	\$0	\$0	\$0	\$0
State	\$0	\$0	\$0	\$0	\$0	\$0
Less: Bad Debt/Write-offs	(\$13,695)	(\$26,846)	(\$45,132)	(\$55,852)	(\$65,363)	(\$206,888)
Total Revenue	\$821,063	\$1,442,953	\$2,402,705	\$2,852,974	\$3,292,771	\$10,812,466
Revenue/Sub/Mo	\$68.42	\$65.00	\$64.07	\$60.96	\$60.98	\$63.89

SAMPLE TELEPHONE COMPANY
BUSINESS PLAN - ADVANCED TELECOMMUNICATIONS SERVICES
INCOME STATEMENT

Calendar Year Estimate	1 Forecast 1998	2 Forecast 1999	3 Forecast 2000	4 Forecast 2001	5 Forecast 2002	Cumulative 5 Yr.
Operating Expenses						
Sales/Marketing - Services	\$36,000	\$50,616	\$64,980	\$61,632	\$54,047	\$267,275
Sales/Marketing - Advertising	\$1,800	\$4,995	\$11,250	\$17,550	\$24,300	\$59,895
Customer Services (Labor)	\$36,000	\$69,930	\$124,031	\$162,531	\$196,912	\$589,404
Engineering	\$18,000	\$24,975	\$31,641	\$29,616	\$25,629	\$129,860
Management	\$9,000	\$17,483	\$31,008	\$40,633	\$49,228	\$147,351
Accounting	\$9,000	\$14,985	\$22,781	\$25,588	\$26,572	\$98,926
Billing Costs	\$12,000	\$21,090	\$33,844	\$40,125	\$43,983	\$151,042
Legal Fees	\$4,920	\$7,282	\$9,840	\$9,824	\$9,069	\$40,934
Insurance	\$1,920	\$3,730	\$6,615	\$8,668	\$10,502	\$31,435
Consulting Fees	\$9,960	\$14,741	\$19,920	\$19,888	\$18,358	\$82,867
Internet Access Cost (Server Ports, IP License)	\$9,000	\$14,400	\$23,400	\$36,900	\$50,400	\$134,100
Local Telephone - Cable Pair Lease Cost	\$300,000	\$555,000	\$937,500	\$1,170,000	\$1,350,000	\$4,312,500
Software RTU/ Network Management	\$6,000	\$11,100	\$18,750	\$23,400	\$27,000	\$86,250
Long Distance Cost	\$0	\$0	\$0	\$0	\$0	\$0
Programming - Basic	\$64,800	\$129,600	\$223,200	\$266,400	\$295,200	\$979,200
Programming - Premium	\$27,000	\$54,000	\$90,000	\$105,000	\$120,000	\$396,000
Programming - VOD	\$97,200	\$198,720	\$349,680	\$426,240	\$482,160	\$1,554,000
(1) Facilities Lease - Transport	\$0	\$0	\$0	\$0	\$0	\$0
Install Labor, each (Wire House/CAT 5)	\$140,000	\$119,000	\$178,500	\$108,500	\$84,000	\$630,000
Interest	\$222,262	\$372,895	\$619,111	\$734,226	\$816,448	\$2,764,942
Depreciation - Video Server - VOD	\$33,195	\$51,795	\$75,825	\$86,031	\$92,264	\$339,110
Depreciation - Digital Video Encoder+HE - CATV	\$73,170	\$73,170	\$89,667	\$89,667	\$106,813	\$432,487
Depreciation - ATM Video Equip	\$163,956	\$315,170	\$628,611	\$809,427	\$952,830	\$2,869,994
Depreciation - ADSL	\$162,333	\$286,518	\$454,168	\$545,882	\$609,786	\$2,058,689
Depreciation - Set Top Box - VOD & CATV	\$102,300	\$184,140	\$278,711	\$313,629	\$332,252	\$1,211,032
Depreciation - Other						
Foregone Cost Recovery - Allocation of Loop to Video						
Interstate	\$0	\$0	\$0	\$0	\$0	\$0
State	\$0	\$0	\$0	\$0	\$0	\$0
Total Expense	\$1,539,816	\$2,595,334	\$4,323,032	\$5,131,356	\$5,777,754	\$19,367,293
Expense/Sub/Mo	\$128.32	\$116.91	\$115.28	\$109.64	\$107.00	\$115.43
Net Income (Loss)/Year	(\$718,754)	(\$1,152,381)	(\$1,920,327)	(\$2,278,383)	(\$2,484,982)	(\$8,554,827)
Net Income/Sub/mo	(\$59.90)	(\$51.91)	(\$51.21)	(\$48.68)	(\$46.02)	(\$51.54)

Notes:

1. Required for Transport Based Business Plans Only, Not Required for Full Head End/Internet Provider Business Plan.

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BASIS FOR TESTIMONY @ 11/4/98
PRIMARY BUSINESS CASE
FULL HEAD END AT COMPANY

SAMPLE TELEPHONE COMPANY
BUSINESS PLAN - ADVANCED TELECOMMUNICATIONS SERVICES
CAPITAL REQUIREMENTS
DOES NOT INCLUDE ANY COSTS TO BUILD CABLE PLANT TO ACCOMMODATE DSL TECHNOLOGY

Calendar Year Estimate	1 Forecast 1998	2 Forecast 1999	3 Forecast 2000	4 Forecast 2001	5 Forecast 2002
Capital Expenditures					
VOD Server (Telco Portion)	\$199,170	\$111,600	\$144,180	\$61,236	\$37,398
Digital Video Encoders Plus Head End - CATV	\$439,020	\$0	\$98,980	\$0	\$102,879
Network Equipment ATM	\$983,737	\$907,284	\$1,880,647	\$1,084,892	\$860,417
ADSL Equipment	\$974,000	\$745,110	\$1,005,899	\$550,286	\$383,425
Set-Top Boxes (5 year life) (CATV Cust*STB Cost)	\$613,800	\$491,040	\$567,424	\$209,510	\$111,739
Total Current Capital Needs	\$3,209,727	\$2,255,034	\$3,697,130	\$1,905,924	\$1,495,858
Total Cumulative Investment in Plant	\$3,209,727	\$5,464,761	\$9,161,891	\$11,067,815	\$12,563,673
Current Capital Investment per Subscriber	\$3,213	\$2,653	\$2,900	\$2,459	\$2,493
Cumulative Capital Investment per Subscriber	\$3,210	\$2,954	\$2,932	\$2,838	\$2,792
 Total	 \$12,839	 \$15,034	 \$14,789	 \$5,082	 \$3,989
Network	\$3,935	\$6,049	\$7,523	\$2,893	\$2,294
ADSL	\$3,896	\$4,967	\$4,024	\$1,467	\$1,022
 Financing					
Debt	1	1	1	1	1
Cash	0	0	0	0	0
 Debt Financing					
Amount Borrowed	\$3,209,727	\$2,255,034	\$3,697,130	\$1,905,924	\$1,495,858
Cumulative Amount Borrowed	\$3,209,727	\$5,464,761	\$9,161,891	\$11,067,815	\$12,563,673
Interest Rate	7.00%	7.00%	7.00%	7.00%	7.00%
Term	20	20	20	20	20
Interest Paid / Year	\$222,262	\$372,895	\$619,111	\$734,226	\$816,448
Principle Paid / Year	\$76,358	\$135,524	\$233,274	\$295,478	\$352,424
Loan Payment / Year	\$298,620	\$508,419	\$852,385	\$1,029,704	\$1,168,872
Cash In - Borrowed Principle	\$3,209,727	\$2,255,034	\$3,697,130	\$1,905,924	\$1,495,858
Cash Out - Interest + Repayment of Principle	\$298,620	\$508,419	\$852,385	\$1,029,704	\$1,168,872
Net Annual Cash Flow - Capital	\$2,911,107	\$1,746,615	\$2,844,745	\$876,220	\$326,985
 Cash Financing					
Cash In	\$0	\$0	\$0	\$0	\$0
Cash Out - Capital Equipment Purchased	\$0	\$0	\$0	\$0	\$0
Net Annual Cash Flow - Capital	\$0	\$0	\$0	\$0	\$0

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BASIS FOR TESTIMONY @ 11/4/98
 PRIMARY BUSINESS CASE
 FULL HEAD END AT COMPANY

**SAMPLE TELEPHONE COMPANY
 BUSINESS PLAN - ADSL
 SUBSCRIBER EVALUATION**

Calendar Year Estimate	Units	Growth Factor	1 Forecast 1998	2 Forecast 1999	3 Forecast 2000	4 Forecast 2001	5 Forecast 2002
INPUTS							
Population	1990 Census						
Total County	17,938	3.00%	22,723	23,405	24,107	24,830	25,575
City (County Seat)	6,438	5.00%	9,512	9,987	10,487	11,011	11,562
Other Incorporated Areas	1,092	0.50%	1,136	1,142	1,148	1,154	1,159
Households (Homes Passed)	Pop/House						
Total County	2.3		9,880	10,176	10,481	10,796	11,120
City (Serve in Years 1-5)	2.3		4,136	4,342	4,559	4,787	5,027
Other Incorporated Areas (Serve in Years 3-	1.4		812	816	820	824	828
Subscribers by Service Type							
Total Subs - CATV and/or Internet ADSL	Total Cumulative		1,000	1,850	3,125	3,900	4,500
Total Services (CATV Basic+Internet Basic+Int Prem)			1,150	2,200	3,750	4,725	5,500
Overlap factor (Services/Subs)			115.00%	118.92%	120.00%	121.15%	122.22%
CATV - Basic 24	Total Cumulative		900	1,800	3,100	3,700	4,100
Penetration of Total Market	Subs/Homes Passed		21.76%	41.45%	57.63%	65.94%	70.03%
CATV - Premium	Total Cumulative		450	900	1,500	1,750	2,000
Penetration - Premium of Basic			50.00%	50.00%	48.39%	47.30%	48.78%
CATV - PPV/VOD/Basic Sub/Mo.	Trans/Basic Sub/Mo		1.5	1.7	1.8	2.0	2.2
Internet Basic (256K)	Total Cumulative		200	300	500	800	1,100
Penetration of Total Market	Subs/Homes Passed		4.84%	6.91%	9.29%	14.26%	18.79%
Internet Premium	Total Cumulative		50	100	150	225	300
Penetration of Total Market	Subs/Homes Passed		1.21%	2.30%	2.79%	4.01%	5.12%

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Serial Room
Separate Affiliate Requirements for Incumbent Local Exchange Carriers That
Provide Advanced Telecommunications Services

64.2100 Basis and Purpose

(a) *Basis.* These rules are issued pursuant to Section 706 of the Telecommunications Act of 1996, as amended, and the Commission's Report and Order in CC Docket No. 98-147 dated March 31, 1999.

(b) *Purpose.* The purpose of these rules is to specify the conditions under which incumbent local exchange carriers may provide access to advanced telecommunications services.

64.2101 Terms and Definitions.

Terms used in this part have the following meanings:

Advanced Telecommunications Services (ATS). Advanced telecommunications services are defined as high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality telecommunications using any technology – voice, data, graphics or video – without regard to any transmission media or technology.

Books of Account. Books of account refer to the financial accounting system a company uses to record, in monetary terms, the basic transactions of the company. These books of account reflect the company's assets, liabilities, and equity, and the revenues and expenses from operations. Each company has its own separate books of account.

Exempted Local Exchange Carriers (ELECs). For purposes of provision of advanced telecommunications services, exempted local exchange carriers are those ILECs that are defined under Section 251(f)(2) as controlling less than 2% of the nationwide subscribed access lines. Pursuant to the Commission's Order dated March 31, 1999, all 251(f)(2) ILECs that meet minimum service quality standards are granted exemption from providing ATS through a separate affiliate.

Incumbent Local Exchange Carrier (ILEC). The term incumbent local exchange carrier means, with respect to an area for ATS, the local exchange carrier that: (1) On February 8, 1996, provided telephone exchange service in such area; and (2) (i) On February 8, 1996, was deemed to be a member of the exchange carrier association pursuant to section 69.601 (b) of this title; or (ii) Is a person or entity that, on or after February 8, 1996, became a successor or assign of a member described in (2)(i) of this section.

Local Exchange Carrier. The term local exchange carrier means any person that is engaged in the provision of telephone exchange service or exchange access. Such term does not include a person insofar as such person is engaged in the provision of a commercial mobile service under Section 332(c), except to the extent that the Commission finds that such service should be included in the definition of that term.

Minimum Service Quality Standards. For purposes of this section, minimum service quality standards are defined as requirements as of the end of the prior calendar year as promulgated by: a) the state utility commission with jurisdiction over the ELEC; or b) any rules determined by the Federal Communications Commission.

64.2103 Obligations of all incumbent local exchange carriers.

(a) Except as provided in paragraph (c) of this section, an ILEC providing advanced telecommunications services shall provide such services through an affiliate that satisfies the following requirements:

(1) The affiliate shall maintain separate books of account from its affiliated exchange companies. Nothing in this section requires the affiliate to maintain separate books of account that comply with Part 32 of this title;

(2) The affiliate shall not jointly own transmission or switching facilities with its affiliated exchange companies. Nothing in this section prohibits an affiliate from sharing personnel or other resources or assets with an affiliated exchange company.

(b) The affiliate required in paragraph (a) of this section shall be a separate legal entity from its affiliated exchange companies.

(c) Pursuant to the Report and Order in CC Docket No. 98-147 dated March 31, 1999, all exempted local exchange carriers (ELECs) are permitted to provide advanced telecommunications services without using a separate affiliate through December 31, 2003.

(1)The ELECs shall apply provisions of Part 64 of this title within their books of account to account for the provision of ATS and prevent the cross-subsidization of other regulated activities.

(2)The ELEC shall be permitted to jointly use transmission and switching facilities between exchange access and advanced telecommunications services. Nothing in this section prohibits: sharing personnel, officers, directors or other resources or assets within the ELEC scope of operations; performing joint operating, installation, or

maintenance functions; or obtaining credit under an arrangement that utilizes the creditworthiness of the existing business segments.

(3) ELEC's shall file certifications annually with both the state utility commission with jurisdiction and the Federal Communications Commission that certify by the appropriate corporate officer that the ELEC complies with all applicable minimum service quality standards.

(4) On an annual basis beginning in 2003, any ELEC that continues to meet any and all minimum service quality standards shall be eligible to file for an annual waiver with the Commission to continue to be eligible to provide ATS without complying with the affiliate requirements. The Commission shall act upon all waivers within 90 days of filing.

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DEC 18 1998

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United States Senate

WASHINGTON, DC 20510

July 31, 1996

The Honorable Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

Dear Chairman Hundt:

We are very mindful of the daunting task before the Commission in making all the statutory deadlines and doing an effective job of promoting competition in all telecommunications markets and preserving universal service. By spurring competition and preserving universal service, consumers will benefit with greater choices at lower prices. Those are the twin objectives of the Act.

We are concerned about a potential problem that may arise in the transition to competitive markets for local phone service and necessary reform of mechanisms to support to universal service. As you know, the Commission is charged with promulgating the rules to open local markets to competition by August 8, 1996. Universal service reform rules may not be final until May, 1997, leaving a nine month period in which traditional universal service payment mechanisms (e.g., access charges) could be comprised by interconnection rules affecting local markets. These two separate proceedings are to be completed on different schedules, but the issues must be reconciled and dealt with in a comprehensive and consistent manner.

It is imperative that universal service be preserved during the transition to competition. Congressional intent is clear that consumers are not to experience rate spikes and that the contribution which access charges make to universal service shall continue until alternative funding mechanisms are in place. The words "including receipt of compensation" were specifically added to section 251(g) of the Act to guard against a universal service funding gap.

In order to remain consistent with the Act's requirement that all telecommunications carriers must contribute to universal service, the Commission must establish an interim mechanism, supported by carriers currently paying access charges, if access charges are reformed before the universal service reforms are in place. Any Commission action that permits these new entrants to purchase unbundled network elements at rates below current access rates must include some specific provisions that would ensure universal service is not harmed pending the Commission's final decisions in the universal service docket. The current access charge regime is made up of a number of different elements. While the Commission

Page Two
July 31, 1996

should not provide for a double compensation for the same services, a failure to provide for universal service support, even for a temporary period of time, would do violence to Congressional intent. Any interim support mechanism established by the Commission should only provide for those elements which are necessary to support universal service.

We are particularly concerned about how this transitional issue will affect rural telephone companies. Section 251(f) of the Act was intended to ensure that rural telephone companies are provided with a gradual transition into a competitive environment and obligations incurred only after a bona fide request. We urge you to consider the special circumstances of rural telephone companies while implementing the Act.

Protection of consumers and preservation of universal service ought to be the primary concerns of the Commission while implementing the Act. We appreciate your time and effort in implementing the Act and we look forward to continue working with you.

Sincerely,

Byron L. Dargatzis
Larry Pressler

Tim Egan
Cheray

cc: The Honorable Rachelle Chong
The Honorable Susan Ness
The Honorable James Quello
The Honorable Julia Johnson
The Honorable Kenneth McClure
The Honorable Sharon L. Nelson
The Honorable Laska Schoenfelder
Martha S. Hogerty

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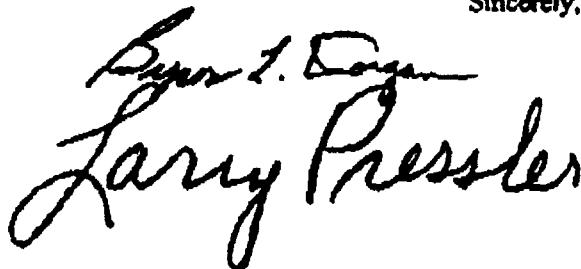
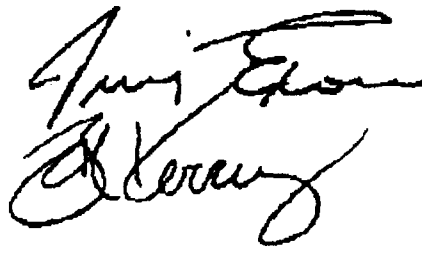
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